

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

v.

RUSS B. COHEN,

Defendant.

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No. 05-0424-03-CR-W-FJG

ORDER

Pending before the Court is defendant's Motion to Withdraw Plea (Doc. No. 59). Defendant argues that he has somehow been prejudiced by Judge Smith's actions in his case prior to Judge Smith's Order of recusal dated January 9, 2007 (see Doc. No. 61).

This Court finds defendant's request to set aside his guilty plea is not supported by the record. In particular, during the hearing before Judge Smith, defendant admitted his guilt. See Tr. at 15-17. Further, defendant argues that Judge Smith's prior rulings in this matter somehow prejudiced him. The only ruling that defendant could be referring to is the adoption of the Report and Recommendation submitted by Magistrate Judge Hays. See Doc. No. 34, Order adopting Report and Recommendations, Doc. No. 31. This Court has conducted an independent review of the file in this matter, and this Court agrees with Judge Hays' Report and Recommendations. Accordingly, this Court finds that defendant has failed to demonstrate bias on the part of Judge Smith in the prior rulings made in this matter.

Defendant has failed to demonstrate that this Court should grant defendant's motion to withdraw his guilty plea pursuant to Rule 11(d) of the Federal Rules of Criminal

Procedure. Therefore, defendant's motion to withdraw his guilty plea (Doc. No. 59) is
DENIED.

IT IS SO ORDERED.

Date: 1/12/07
Kansas City, Missouri

S/ FERNANDO J. GAITAN, JR.
Fernando J. Gaitan, Jr.
United States District Judge